UNITED STATES PATENT AND TRADEMARK OFFICE

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EXAMINER
SARWAR, BABAR

ART UNIT	PAPER NUMBER
2617	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 July 2010*.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.
   4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) *1-20* is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
   a)☐ All   b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *08/30/2010*.
4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application
6)☐ Other: _____ .

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on

08/23/2010 has been entered.

Information Disclosure Statement

2.   The information disclosure statement filed on 08/30/2010 has been considered

and placed in the file of record.

Response to Arguments

3.   Applicant's arguments filed on 07/23/2010 have been fully considered but they

are not persuasive.

In response to applicant's argument that there is no suggestion to combine the

references, the examiner recognizes that obviousness can only be established by

combining or modifying the teachings of the prior art to produce the claimed invention

where there is some teaching, suggestion, or motivation to do so found either in the

references themselves or in the knowledge generally available to one of ordinary skill in

the art. See In re Fine, 837 F.2d 1071,5 USPQ2d 1596 (Fed. Cir. 1988) and In re Jones,

958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir.1992). In this case, the Examiner very kindly

directs the Applicant to Sato e.g., ¶ [0014], ¶ [0015], ¶ [0026], ¶ [0034], ¶ [0059], ¶

[0068], ¶ [0072], ¶ [0073], ¶ [0077], ¶ [0102], ¶ [0103], Figs. 1-4, 7-10, that the object of

Sato is to introduce a method of invention providing a multicast service from an

information delivery apparatus to wireless terminals through wireless routes. The

method includes the step of transmitting, from the information delivery apparatus, **a**

plurality of sets of multicast information, wherein these **sets are identical to each**

other as to contents thereof but differ in transmission conditions. The method

further includes the step of receiving, at any given one of the wireless terminals, one of

the sets of multicast information being transmitted under **one of the differing**

transmission conditions. Sato further teaches that these **transmission conditions**

are defined for the transmission of multicast information to the wireless

terminals, and are of such a **nature as affecting the reception quality of each**

wireless terminal. On the other hand, in an analogous field of endeavor, Varma is

relied upon for the subsequent transmitter behavior corresponding to at least two non-

contiguous ones of the quality ranges is identical (See Varma e.g., non-contiguous

states, assigned indexes corresponding to a particular set of wireless link parameters of

Page 5 table line and wireless parameters, Col. 6:55-61, Figs. 3, 6,), wherein the

subsequent transmitter behavior includes adjusting at least one transmitter parameter of

the first station such that the at least one transmitter parameter corresponding to the at

least two non-contiguous ones of the quality ranges is identical (See Varma e.g.,

dynamic adaption of non-contiguous states (lines) 21, 23 etc. with identical parameters

such as High symbol rate (HSR), Low symbol rate (LSR) , and Forward error correction

(FEC) of Page 5 table regarding line and wireless link parameters, Col. 4:34-67, Col.

5:1-30, Figs. 3, 6), and wherein the data packets falling into one quality range affect

retransmission decisions regarding the data packets falling into another quality range

(See Varma e.g., determining measure of errors, comparing to thresholds, and the

relationship for a first set of wireless link parameters intersecting the relationship for a

second set of wireless link parameters of Col. 5:49-67, Col. 6:1-14,Figs. 4-5).

Therefore, it would have been obvious to one of ordinary skill in the art at the time

the invention was made to provide the above teachings of Varma to Sato for the

purpose of dynamically adapting a set of wireless link parameters that provides a better

selection of throughput as well as adapting more efficiently to changes in

communication conditions as suggested (See Varma e.g., Col. 1:46-51).

One cannot show nonobviousness by attacking references individually

where the rejections are based on combinations of references. In re Keller, 642

F.2d 413, 20 USPQ 871 (CCPA 1981); In re Merck & Co., Inc., 800 F.2d 1091, 231

USPQ 375 (Fed. Cir. 1986). Therefore, the previous rejection is maintained.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato

(US Pub. No. 2002/0003798 A1) in view of Varma (US Pat. 7,88,919 B2).

Regarding **claims 1, 15, and 19**, Sato teaches a method of operating a packet

data multicast communication system comprising a first station and a plurality of second

stations (See Sato e.g., a base station transmitting multicast information to a plurality of

wireless terminals Figs. 1, 4, ¶ [0014]), the first and second stations having transceiving

equipment for communication between the first and second stations (See Sato e.g.,

communication between the a base station and the wireless terminals Figs. 1, 4, ¶

[0015]), the method comprises the first station transmitting a data packet and at least

one of the plurality of the second stations receiving the data packet (See Sato e.g., the

multicast service of Figs. 1, 4, ¶ [0014], ¶ [0015]), wherein the at least one of the

plurality of the second stations measuring the quality of reception of the received data

packet (See Sato e.g., measuring reception quality at the wireless terminals Figs. 1, 4, ¶

[0026], ¶ [0034]), and determining into which one of at least three predetermined quality

ranges the measured quality falls, wherein the first station adopts a respective

subsequent transmitter behavior in response to each of the at least three predetermined

quality ranges (See Sato e.g., the base station with a plurality of transmission rates or

schemes based on measurements Fig. 10, ¶ [0102], ¶ [0103]).

Sato further teaches that the wireless terminals measure the reception quality of

signals received from the base station (See Sato e.g., measuring reception quality at

the wireless terminals Figs. 7-9, ¶ [0102]]). Sato further teaches receiving multicast

information by using different transmission conditions (See Sato e.g., spreading codes,

modulation schemes, and identification of time slots etc. Figs. 7-9, ¶ [0102], ¶ [0103]).

However, Sato does not explicitly teach that the subsequent transmitter behavior

corresponding to at least two non-contiguous ones of the quality ranges is identical ,

wherein the subsequent transmitter behavior includes adjusting at least one transmitter

parameter of the first station such that the at least one transmitter parameter

corresponding to the at least two non-contiguous ones of the quality ranges is identical,

and wherein the data packets falling into one quality range affect retransmission

decisions regarding the data packets falling into another quality range.

In analogous field of endeavor, Varma teaches the subsequent transmitter

behavior corresponding to at least two non-contiguous ones of the quality ranges is

identical (See Varma e.g., non-contiguous states, assigned indexes corresponding to a

particular set of wireless link parameters of Page 5 table line and wireless parameters,

Col. 6:55-61, Figs. 3, 6,), wherein the subsequent transmitter behavior includes

adjusting at least one transmitter parameter of the first station such that the at least one

transmitter parameter corresponding to the at least two non-contiguous ones of the

quality ranges is identical (See Varma e.g., dynamic adaption of non-contiguous states

(lines) 21, 23 etc. with identical parameters such as High symbol rate (HSR), Low

symbol rate (LSR) , and Forward error correction (FEC) of Page 5 table regarding line

and wireless link parameters, Col. 4:34-67, Col. 5:1-30, Figs. 3, 6), and wherein the

data packets falling into one quality range affect retransmission decisions regarding the

data packets falling into another quality range (See Varma e.g., determining measure of

errors, comparing to thresholds, and the relationship for a first set of wireless link

parameters intersecting the relationship for a second set of wireless link parameters of

Col. 5:49-67, Col. 6:1-14,Figs. 4-5).

Therefore, it would have been obvious to one of ordinary skill in the art at the time

the invention was made to provide the above teachings of Varma to Sato for the

purpose of dynamically adapting a set of wireless link parameters that provides a better

selection of throughput as well as adapting more efficiently to changes in

communication conditions as suggested (See Varma e.g., Col. 1:46-51).

Regarding **claim 2**, the combination teaches everything claimed as discussed

above in the rejected claim 1. Further, Sato teaches that the method characterized by

the second station transmitting indicia representative of the quality ranges other than

said at least two non-contiguous quality ranges (See Sato e.g., spreading codes,

modulation schemes, and identification of time slots etc. of Figs. 7-9, ¶ [0102], ¶ [0103]).

Regarding **claim 3**, the combination teaches everything claimed as discussed

above in the rejected claim 2. Further, Sato teaches that the method characterized by

the second station transmitting the indicia representative of the quality ranges in respect

of each of the at least two non-contiguous quality ranges (See Sato e.g., spreading

codes, modulation schemes, and identification of time slots etc. of Figs. 7-9, ¶ [0072], ¶

[0102], and ¶ [0103]).

Regarding **claim 4**, the combination teaches everything claimed as discussed

above in the rejected claim 1. Further, Sato teaches that the method characterized in

that the at least two non-contiguous quality ranges are the best and the worst quality

ranges (See Sato e.g., a plurality of transmission rates T1-T5 of Figs. 10, 15).

Regarding **claims 5, 16, 20**, the combination teaches everything claimed as

discussed above in the rejected claims 1, 15, 19. Further, Sato teaches that the method

wherein the measuring of the quality of reception of the received data packet is characterized by comparison of a measure of a predetermined quality metric of a received signal with at least three quality ranges (See Sato e.g., a plurality of transmission rates T1-T5, modulation schemes of Figs. 10, 15).

Regarding **claim 6**, the combination teaches everything claimed as discussed above in the rejected claim 5. Further, Sato teaches that the method characterized in that the quality ranges are defined by threshold values applied by respective second stations (See Sato e.g., reception quality predetermined levels, ¶ [0073]).

Regarding **claim 7**, the combination teaches everything claimed as discussed above in the rejected claim 5. Further, Sato teaches that the method characterized in that the quality ranges are defined by threshold values signaled to the second stations by the first station (See Sato e.g., reception quality predetermined levels for the wireless terminals of ¶ [0073]).

Regarding **claim 8**, the combination teaches everything claimed as discussed above in the rejected claim 5. Further, Sato teaches that the method characterized in that the predetermined quality metric comprises at least one of: Eb/N0 (energy per bit/noise density); the number of data packets received successfully in a predetermined time window; the proportion of data packets previously received correctly out of a group of predetermined number of packets; and the received SIR (Signal to Interference Ratio) or SNR (Signal to Noise Ratio) of another received signal (See Sato e.g., reception level, an interference level, and an error rates etc., of ¶ [0059]).

Regarding **claim 9**, the combination teaches everything claimed as discussed

above in the rejected claim 8. Further, Sato teaches that the method characterized in that the quality of reception of the received data packet is determined during a predetermined duration (See Sato e.g., a predetermined time period for reception of multicast information of ¶ [0068]).

Regarding **claims 10, 17**, the combination teaches everything claimed as discussed above in the rejected claims 1, 15. Further, Sato teaches that the method characterized in that the first station adjusts one or more transmission parameters to ensure that at least a predetermined percentage of secondary stations receive a data packet data service satisfactorily (See Sato e.g., selection of spreading codes, modulation schemes, and identification of time slots etc., of ¶ [0077]).

Regarding **claims 11, 18**, the combination teaches everything claimed as discussed above in the rejected claims 10, 17. Further, Sato teaches that the method characterized in that the transmission parameters comprise one or more of: number of retransmissions; transmit power; spreading factor; code rate; and modulation scheme (See Sato e.g., selection of spreading codes, modulation schemes, and identification of time slots transmission rates etc., of ¶ [0077]).

Regarding **claim 12**, the combination teaches everything claimed as discussed above in the rejected claim 2. Further, Sato teaches that the method characterized in that different of the indicia are distinguished by transmission at different times (See Sato e.g., selection of spreading codes, modulation schemes, and identification of time slots transmission rates etc., of ¶ [0102]).

Regarding **claim 13**, the combination teaches everything claimed as discussed

above in the rejected claim 2. Further, Sato teaches that the method characterized in that different of the indicia are distinguished by different code words (See Sato e.g., selection of spreading codes, modulation schemes, and identification of time slots transmission rates etc., of ¶ [0077]).

Regarding **claim 14**, the combination teaches everything claimed as discussed above in the rejected claim 2. Further, Sato teaches that the method characterized in that different of the indicia are distinguished by different frequency channels (See Sato e.g., selection of spreading codes, modulation schemes, and identification of time slots transmission rates etc., of ¶ [0077]).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BABAR SARWAR whose telephone number is (571)270-5584. The examiner can normally be reached on MONDAY TO FRIDAY 09:00 A.M -05:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, NICK CORSARO can be reached on (571)272-7876. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

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published applications may be obtained from either Private PAIR or Public PAIR.

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Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/BABAR SARWAR/
Examiner, Art Unit 2617

/KAMRAN AFSHAR/

Primary Examiner, Art Unit 2617